

including all pertinent documents accompanying them, and may also consider any evidence which refers to the provider or to any claim with respect to which the provider has provided medical services, hospital services, or medical support services and supplies, and such other evidence as the administrative law judge may determine to be necessary or useful in evaluating the matter.

(c) All hearings shall be recorded and the original of the complete transcript shall become a permanent part of the official record of the proceedings.

(d) Pursuant to 5 U.S.C. 8126, the administrative law judge may:

(1) Issue subpoenas for and compel the attendance of witnesses within a radius of 100 miles;

(2) Administer oaths;

(3) Examine witnesses; and

(4) Require the production of books, papers, documents, and other evidence with respect to the proceedings.

(e) At the conclusion of the hearing, the Administrative Law Judge shall issue a written decision and cause it to be served on all parties to the proceeding, their representatives and the Director.

§ 10.455 Review by Director.

(a) *Procedure.* Any party adversely affected or aggrieved by the decision of the Administrative Law Judge may file a petition for discretionary review with the Director within 30 days after issuance of the decision. The Judge's decision, however, shall be effective on the date issued and shall not be stayed except upon order of the Director.

(b) *Review discretionary.* Review by the Director shall not be a matter of right but of the sound discretion of the Secretary.

(c) *Grounds.* Petitions for discretionary review shall be filed only upon one or more of the following grounds:

(1) A finding or conclusion of material fact is not supported by substantial evidence;

(2) A necessary legal conclusion is erroneous;

(3) The decision is contrary to law or to the duly promulgated rules or decisions of the Director;

(4) A substantial question of law, policy, or discretion is involved; or

(5) A prejudicial error of procedure was committed.

(d) *Requirement.* Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignments of error are based on the record, and by statutes, regulations, or principal authorities relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the Judge had not been afforded an opportunity to pass.

(e) *Statement in opposition.* A statement in opposition to the petition for discretionary review may be filed, but such filing shall in no way delay action on the petition.

(f) *Scope of review.* If a petition is granted, review shall be limited to the questions raised by the petition.

(g) *Denial of petition.* A petition not granted within 20 days after receipt of the petition is deemed denied.

(h) The decision of the Director shall be final with respect to the provider's participation in the program, and shall not be subject to further review by any court or agency.

§ 10.456 Effects of exclusion.

(a) The Office shall give notice of the exclusion of a physician, hospital, or provider of medical support services or supplies to:

(1) All OWCP district offices;

(2) All employing Federal agencies;

(3) The Health Care Financing Administration;

(4) The State or Local authority responsible for licensing or certifying the excluded party;

(5) All claimants who are known to have had treatment, services or supplies from the excluded person within the six month period immediately preceding the order of exclusion.

(b) Notwithstanding any exclusion of a physician, hospital, or provider of medical support services or supplies under this subpart, the Office shall not refuse a claimant reimbursement for any otherwise reimbursable medical treatment, service or supply if:

(1) Such treatment, service or supply was rendered in an emergency by an excluded physician; or